

**JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY  
COURT NO. 13**

MOBILE HOME VILLAGE  
Plaintiff Below,  
Appellee

VS

ELLEN LEWIS  
Defendant Below,  
Appellant

§  
§  
§  
§  
§  
§  
§  
§  
§

C.A. No. JP13-18-008362

TRIAL DE NOVO

Submitted: September 26, 2018  
Decided: September 28, 2018

**APPEARANCES:**

Plaintiff represented by Form 50 Agent Deborah Newlan  
Defendant is *Pro Se*

Sean McCormick, Deputy Chief Magistrate  
Gerald Ross, Justice of the Peace  
Nina Bawa, Justice of the Peace

**JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY  
COURT NO. 13**

**CIVIL ACTION NO: JP13-18-008362**

**MOBILE HOME VILLAGE VS ELLEN LEWIS**

**ORDER ON TRIAL DE NOVO**

Plaintiff filed this civil action seeking past due rent, late fees, and possession on July 18, 2018. The trial before a single Justice of the Peace was held on August 27, 2018. A judgment was awarded to Plaintiff on September 4, 2018, for rent, late fees, possession, court costs, and post-judgment interest. Defendant appealed the decision to a three-judge panel on September 6, 2018. Defendant posted a bond of \$450.00 to the Court on September 21, 2018 which stayed the eviction pending the appeal. A panel consisting of Deputy Chief Magistrate McCormick, Judge G. Ross, and Judge Bawa heard the trial de novo on September 26, 2018. This is the Court's decision after trial. For the reasons stated below, the Court finds in favor of Plaintiff for all rent due and owing and late fees, court costs, and post judgment interest. Possession remains with Defendant due to a necessary party not being included as a Defendant in this court action.

*Facts*

Plaintiff seeks past due rent, late fees, and per diem totaling \$828.42, possession, court costs, and post judgment interest. Plaintiff asserts that Defendant Ellen Lewis signed a rental agreement which listed Frank Lewis but not as a leaseholder. Plaintiff asserts Frank Lewis is an occupant only. Plaintiff asserts the monthly rent is \$425.00 and the rental agreement provides for late fees of \$20.00 per month. On July 6, 2018, Plaintiff sent Defendant a seven-day letter via certificate of mailing pursuant to 25 Del. C. § 7010A(b)(3). When the rent remained in default after the seven-day cure period, Plaintiff filed a summary possession action. Two payments were received after the seven-day period, and Plaintiff asserts that they provided Defendant with a reservation of rights via certificate of mailing on both July 24, 2018 and July 25, 2018. Plaintiff entered into evidence a proper seven-day notice with proof of mailing, two reservation of rights letters with proof of mailing, bill of sale and county records to show that Defendant does not own the manufactured home as required, and the rental agreement. Plaintiff asserts that Defendant had a \$5.00 credit at the end of July 2018 but has not paid rent since then, and therefore owes the rent balance of \$420.00 for August plus \$20.00 August late fee and September rent of \$425.00 plus \$20.00 September late fee.

Defendant admits to owing the claimed past due rent and late fees. Defendant asserts that she had planned to live in the manufactured home at one time but her plans changed and she never lived there. Defendant asserts that her son Frank Lewis lives in the trailer, and she was just trying to help him. Defendant asserts that Frank Lewis fell on hard times and got behind on the rent.

### Discussion

Landlord-Tenant relationships in manufactured home communities are governed by Chapter 70 under Title 25 of the Delaware Code. A landlord may proceed under 25 Del. C. § 7010A(b)(3), which states:

*If rent, which includes late fees for rent, other fees and charges, including utility charges, and the Trust Funds assessment, is not received by the landlord by the 5th day after the due date or during the grace period stated in the rental agreement, whichever is longer, the landlord shall notify the tenant in writing, demanding payment and stating that unless the required payment is made within 7 days from the date of mailing or personal service, the rental agreement will be terminated. If the tenant remains in default after the 7-day period, whether or not the 7-day period falls within 1 lease period or overlaps 2 lease periods, the landlord may terminate the rental agreement and bring an action to recover the rent due and for summary possession.*

There is no dispute that Defendant has not paid any rent since July 25, 2018. Plaintiff testifies that Defendant Ellen Lewis is the only tenant on the lease and Frank Lewis is listed on the lease only as an occupant. However, after careful review of the lease dated November 1, 2016, the lease lists contradicting definitions of “tenant”:

- On page 1, which states “THIS AGREEMENT made this 1<sup>st</sup> day of November, 2016, by and between Mobile Home Village, herein called ‘LANDLORD’, and Ellen Lewis herein called ‘TENANT’...”.
- On the last page of the lease, which states “Tenant has received the landlord tenant code and rules and regulations, please sign below for your full understanding of this contract” and is signed by both Ellen Lewis and Frank Lewis, both of which are listed as TENANTS.

“Tenant” is defined under 25 Del. C. § 7003 (21) as:

*“Tenant” or “home owner” means an owner of a manufactured home who has a tenancy of a lot in a manufactured home community; a lessee.*


While it is clear that the first page only lists Ellen Lewis as a tenant, both Frank Lewis and Ellen Lewis signed the lease as tenants. The lease does not make clear an important distinction between tenant and occupant. As Frank Lewis is a signatory on the lease and it is not specified that he is signing only as an occupant and not a tenant, the Court finds he is a necessary party to this action. Frank Lewis is not listed as a Defendant on this action and there was also no testimony or evidence to show that he was provided with an opportunity to cure. As such, the Court is unable to grant summary possession to Plaintiff.

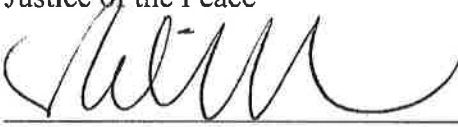
*Conclusion*

The Court finds Plaintiff has met their burden to prove by a preponderance of the evidence that Defendant owes rent for August and September 2018. As such, the Court enters Judgment for Plaintiff Mobile Home Village and against Defendant Ellen Lewis in the total amount of \$885.00, court costs of \$112.50, and post judgment interest at 7.75% per annum. This amount includes rent through September 30, 2018. Possession remains with Defendant. The \$450.00 bond held by the Court shall be released to Plaintiff.

IT IS SO ORDERED 28th day of September, 2018

  
(for) SEAN P. MCCORMICK  
Deputy Chief Magistrate

  
(for) GERALD ROSS  
Justice of the Peace

  
NINA M. BAWA  
Justice of the Peace



Information on post-judgment procedures for default judgment on Trial De Novo is found in the attached sheet entitled Justice of the Peace Courts Civil Post-Judgment Procedures Three Judge Panel (J.P. Civ. Form No. 14A3J).